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Cc: Robert Law[rlaw@demaximis.com]; Stan Kaczmarek[StanK@demaximis.com]; Mike Barbara[mab.consulting@verizon.net]
From: Willard Potter
Sent: Fri 2/22/2013 2:53:57 AM
Subject: Issues w/NJDEP Permit-Equivalence Application Process

Ray/Stephanie:

Listed below are several issues/topics that have developed as we attempted to complete the applications for a Tideland License (for dredging) and Waterfront Development (WFD) Permit.

- The request for conducting a flooding assessment/modeling as additional documentation to support that Flood Hazard is not applicable (Note that if a Flood Hazard application-equivalent is required, the project schedule will be shifted back). Stating that the WFD and FHA would need to be reviewed on the same time track (although we are in disagreement about whether FHA is warranted & we are submitting WFD). NJDEP directed us to Bureau of Dam Safety and Flood Control; when this Bureau effectively agreed with our assessment that there was no flooding potential from the project, Bureau of Case Management then put the decision to Land Use Regulation Program (LURP). Additional project information (cross sections showing dredging location outside of channel and proposed depth of cap confirming no net increase in fill) was provided to LURP last week. No response yet to our position that project would not change flooding potential and does not need a Flood Hazard assessment.
- Required that the off-site water disposal facility and out-of-state off-site sediment disposal facilities be identified; challenging the disposal facility's ability to accept our data in determining whether the sediment was sufficiently characterized; suggested that the Department has approval authority re use of an out-of-state facility. We indicated that EPA has the authority to approve selection of off-site disposal facilities.
- Requested elutriate testing/characterization that is required for direct discharge of excess barge water to surface water during maintenance dredging operations even though we indicated that excess barge water would be collected, containerized, tested then disposed of.
- Indicating that they could not review the WFD application in less than 30 days although they have reviewed all prior documents. Reluctantly considering a "conditional approval" (which we suggested) so that we can appear before the Tidelands Commission in a timely manner
- Inclusion of extensive chemical analysis in the WFD Construction Environmental Monitoring Plan (Water Quality) and stating that the WFD will not be approved if there are any future submittals such as RM 10.9 Removal Action Design Construction Water Quality Monitoring Plan (although NJDEP has reviewed and provided written comments on the RM 10.9 Removal Action BODR and the Pre-Final Design which had the preliminary construction water quality monitoring plan)
- NJDEP accepted the responsibility to inform State Historic Preservation Organization (SHPO) of the project. We did not receive SHPO documentation from NJDEP although they stated there were no SHPO issues.
- We understood from NJDEP that if we sent lot/block for the adjacent properties, they would confirm State of NJ ownership of the river. Instead, they gave it back to us, resulting in K&L Gates doing a title search.
- Dredging operations air Potential To Emit (PTEs) calculations submitted in Dec & Jan for the determination of whether an air permit equivalent would be required; no documented conclusion received from NJDEP

These are some of the highlights from several teleconferences - nothing really in writing from NJDEP at this point. We will be submitting the two application packages tomorrow (2/22/13). Our responses to these issues were included in the applications with explanations where we disagreed with the requests or directions.

Thx,
Bill P.